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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CS(OS) 15/2014

HINDUSTAN PREFAB LTD. ..... Plaintiff

Through Mr. Arvind Minocha, Adv.

versus

BASANT BAGDE, PROPRIETRO VIJETA CONSTRUCTION CO. ..... Defendant

Through Mr. Anup Jain, Adv.

**CORAM:**
**ASHUTOSH KUMAR (DHJS), JOINT REGISTRAR (JUDICIAL)**

**O R D E R**

**% 12.07.2016**

**IA No.13065/2014 under Order I Rule 10(2) read with Section 151 CPC, 1908 for impleading M/s Vijeta Construction Company, a unit of M/s VB Properties and Infrastructure India Limited represented by Managing Director Mr. Basant Bagde in place of existing defendant and;**
**IA No.6777/2015 under Order I Rule 10 (2) CPC for impleadment of four additional defendants who are officials of Govt. of Chattisgarh and Govt. of India, both IAs moved by defendant**

Replies in both the captioned IAs have been filed whereas no rejoinder has been filed.

No arguments were addressed on behalf of defendant inspite of grant of opportunity. Arguments were addressed by learned counsel for plaintiff only.

Learned counsel for plaintiff has relied upon one judgment in the case titled as ***'Mumbai International Airport Pvt. Ltd. V. Regency Convention Centre & Hotels Pvt. Ltd. & Ors. AIR 2010 Supreme Court 3109.*** The plaintiff has filed the original suit for recovery against the defendant and relief has been claimed

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specifically against the defendant only. The defendant in IA No.13065/2014 has stated that in its status as sole proprietary entity, it had addressed a letter to plaintiff on 23.08.2008 informing about its changed status w.e.f. 15.07.2008 to M/s V. B. Properties and Infrastructure Limited and the latter's PAN being AACCV5563E for the purpose of effecting TDS.

Per contra, plaintiff in its reply has denied that status of the defendant Mr. Basant Bagde changed. As per plaintiff, even if defendant is claiming to be unit of the aforesaid company, it does not affect the present case relating to the contract in question. It is further the case of plaintiff that merely because defendant asked for the change of the PAN for the purpose of deduction of tax, it is at best the defendant's internal tax matter and does not relieve the defendant in his capacity as the sole proprietor of Vijeta Construction Co., from the liabilities under the contract and suit in question.

Thus it is the admitted case of the parties that the contract in question was executed by the plaintiff with the defendant. Rest of the points raised by the defendant are disputed question of facts, which can be decided only by means of evidence. Hence defendant only is necessary and proper party in the suit. The defendant cannot compel the plaintiff to implead M/s Vijeta Construction Company, a unit of M/s VB Properties and Infrastructure India Limited represented by Managing Director Mr. Basant Bagde in place of him and also the officials of Govt. of Chattisgarh and Govt. of India (as mentioned in

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IA No.6777/2015), since they do not appear to be necessary or proper parties.

In view of the same and in view of judgment relied by learned counsel for plaintiff, the captioned IAs being devoid of merits, are dismissed. Both the captioned IAs are disposed of accordingly.

**CS(OS) 15/2014**

Pleadings in the suit are already complete.

Parties of both sides to file their respective original/certified copies of the documents, if not already filed, within four weeks and they shall conduct their admission/denial of documents on affidavits within eight weeks.

Re-notify the matter for marking of exhibits on 24.11.2016.

**ASHUTOSH KUMAR (DHJS)**
**JOINT REGISTRAR (JUDICIAL)**

**JULY 12, 2016/ab**